

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

ROBERT HERSHAL PERKIS,	)	
	)	
Petitioner,	)	
	)	
vs.	)	CIV-05-1143-M
	)	
MARTY SIRMONS, Warden,	)	
	)	
Respondent.	)	

REPORT AND RECOMMENDATION

Petitioner has filed a motion for leave to proceed *in forma pauperis* and supporting affidavit. Having reviewed said motion and affidavit, the undersigned finds that Petitioner has sufficient financial resources to pay the filing fee. Because he does not qualify for authorization to proceed without payment of the filing fee, Petitioner's motion should be denied and he should be required to pay the full filing fee for this action to proceed.

RECOMMENDATION

Based on the foregoing findings, it is recommended that the motion for leave to proceed *in forma pauperis* be DENIED and the action be dismissed without prejudice unless Petitioner pays the full filing fee by October 24<sup>th</sup>, 2005. Petitioner is advised of his right

to file an objection to this Report and Recommendation with the Clerk of this Court by October 24<sup>th</sup>, 2005, in accordance with 28 U.S.C. §636 and LCvR 72.1. Petitioner is further advised that failure to make timely objection to this Report and Recommendation waives his right to appellate review of both factual and legal issues contained herein. Moore v. United States of America, 950 F.2d 656 (10th Cir. 1991).

This Report and Recommendation disposes of all issues referred to the undersigned Magistrate Judge in the captioned matter.

ENTERED this 3<sup>rd</sup> day of October, 2005.

  
GARY M. PURCELL  
UNITED STATES MAGISTRATE JUDGE